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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,495	06/23/2003	Darrell James Shelton	M5015.P001	2225

7590

11/16/2004

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EXAMINER

HUYNH, KHOA D

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/602,495

Applicant(s)

SHELTON, DARRELL JAMES

Examiner

Khoa D. Huynh

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) 1-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 45-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/23/03 & 11/25/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group II, claims 45-47, in the reply filed on 10/29/04 is acknowledged. The traversal is on the ground(s) that a prima facie case for restricting the claims has not been made. This is not found persuasive because

a) inventions II and I are related as method and apparatus for its practice. And, in this instant the method as claimed can be practiced by another materially different apparatus such as an apparatus that does not require both a seat portion and a back portion (see cited references), and

b) inventions II and I include divergent claimed subject matter that separate the inventions. And such recognized divergent subject matter is a burden to examination.

The requirement is still deemed proper and is therefore made FINAL.

Furthermore, claims 1-44 are withdrawn from further consideration as being drawn the non-elected invention.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 46 and 47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation "inspecting an area of...a lower spine region...by accessing the human through an aperture in the support surface" renders the claim

indefinite since it is unclear how a person is capable of inspecting the lower spine region himself/herself while positioned on the support surface. Furthermore, it is unclear what the meaning of "by accessing the human through an aperture in the support surface" is.

Claim 47 depends on claim 46 and is likewise indefinite.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 45-47, as presently understood and given the broadest reasonable interpretations, are rejected under 35 U.S.C. 102(b) as being anticipated by Wilk (5551098).

Regarding claim 45, the Wilk reference discloses a device (Fig. 5) that cleans an anal region of a person. The device includes a support surface (at 42) supporting the person, and an aperture (about 68 in Figure 5) that allows the accessing of the anal region to clean it.

Regarding claim 46, the Wilk reference discloses a device (Fig. 5) that allows a person to medically treat him or herself with afflictions such as hemorrhoids and cystitis. The device includes a support surface (at 42) supporting a person, and an aperture (about 68 in Figure 5) that allows the accessing of the anal region to clean it and, inherently, the visual inspection of

the anal region during the cleaning and after the cleaning to make sure that the anal region is indeed cleaned.

Regarding claim 47, as stated above, the Wilk device is known to be used to treat afflictions such as hemorrhoids and cystitis, thus, when the device is used, medical services are inherently administering to the person, in the forms of cleansing, douching, irrigating using disinfectant agents (col. 2, lines 60-65), through the aperture in the support surface.

6. Claim 45, as presently understood and given the broadest reasonable interpretations, is rejected under 35 U.S.C. 102(b) as being anticipated by Tanaka et al. (5201080).

The Tanaka et al. reference discloses a device (Fig. 1) that cleans an anal region of a person. The device includes a support surface (at 2) supporting the person, and an aperture (the opening formed in element 2) that allows the accessing of the anal region to clean it.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 46 and 47, as presently understood and given the broadest reasonable interpretations, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka et al. (5201080) in view of Tsipov (5513396).

The Tanaka et al. reference discloses a device (Fig. 1) that allows a person to medically treat him or herself with afflictions such as hemorrhoids and cystitis (col. 5, lines 52-60). The device includes a support surface (at 2) supporting a person, and an aperture (the opening formed in element 2) that allows the accessing of the anal region to clean it.

The Tanaka et al. reference DIFFERS in that it does not specifically include the inspection of an area of the person, as claimed. Attention, however, is directed to the Tsipov reference which discloses device (10) that allows a person using a toilet or a bidet (a device that is used to medically treat a person with afflictions such as hemorrhoids and cystitis) to monitor or inspect the lower parts of his or her body. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Tanaka et al device by employing a device that is used to inspect the anal region of a person, in view of teaching of Tsipov, in order to allow the person to visually inspecting the cleaning action while sitting on the support surface.

Regarding claim 47, as stated above, the modified Tanaka et al. device is known to be used to treat afflictions such as hemorrhoids and cystitis, thus, when the device is used, medical services are inherently administering to the person, in the forms of cleansing, douching, irrigating using disinfectant agents (col. 5, lines 52-60), through the aperture in the support surface.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Anderson et al. and Jamison were cited to show a sitz bath including a support surface with an aperture that allows a person to be medically treating in the anal region.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (703) 306-5483. The examiner can normally be reached on M-F (7:00-4:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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